


ANALYSIS

This ordinance amends Title 16 – Highways of the Los Angeles County Code to add Division 6, which implements the provisions of the Digital Infrastructure and Video Competition Act of 2006, codified in California Public Utilities Code section 5800 et seq., which the County is required to administer and enforce throughout the unincorporated County.

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GVC:gjh

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ORDINANCE NO. _____

An ordinance amending Title 16 – Highways of the Los Angeles County Code to add Division 6, which implements the provisions of the Digital Infrastructure and Video Competition Act of 2006, codified in California Public Utilities Code section 5800 et seq., which the County is required to administer and enforce throughout the unincorporated County.

The Board of Supervisors of the County of Los Angeles ordains as follows:

Division 6

STATE VIDEO SERVICE FRANCHISES

Chapters:

16.88	General Provisions
16.89	Definitions
16.90	Fees
16.91	Customer Service
16.92	Permits and Construction
16.93	Emergency Alert
16.94	Interconnection
16.95	Notices

Chapter 16.88

GENERAL PROVISIONS

Sections:

16.88.010	Purpose.
16.88.020	Rights reserved.
16.88.030	Compliance with Division 6.

16.88.010	Purpose.
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This Division is intended to be applicable to video service providers who are applying for, or have been awarded, a state video franchise under California Public

Utilities Code section 5800 *et seq.* (the Digital Infrastructure and Video Competition Act of 2006), to serve any unincorporated area of the county.

16.88.020 Rights reserved.

The rights reserved to the county under this Division 6 are in addition to all other applicable rights of the county, whether reserved by other provisions of the county code or as otherwise authorized by law, and no action, proceeding, or exercise of a right shall affect any other rights which may be held by the county.

16.88.030 Compliance with Division 6.

Nothing contained in this Division 6 shall be construed to exempt a state franchise holder from compliance with all applicable ordinances, rules, or regulations of the county now in effect or which may be hereafter adopted which are not inconsistent with this Division or California Public Utilities Code section 5800 *et seq.*

Chapter 16.89

DEFINITIONS

Sections:

- 16.89.010 Definitions generally – Interpretation of language.**
- 16.89.020 Access, PEG access, PEG use, or PEG.**
- 16.89.030 County.**
- 16.89.040 Gross revenues.**
- 16.89.050 Director of public works.**
- 16.89.060 State franchise holder, holder of a state franchise, holder of the state franchise, or holder.**

16.89.010 Definitions generally – Interpretation of language.

For purposes of this Division 6, the following terms, phrases, words, and their derivations shall have the meaning given in this chapter. Unless otherwise expressly stated, words not defined in this Division 6 shall be given the meaning set forth in

Division 2.5 of the California Public Utilities Code, section 5800 *et seq.* (the Digital Infrastructure and Video Competition Act of 2006). When not inconsistent with the context, words used in the present tense include the future, words in the plural number include the singular number, words in the singular number include the plural number, and "including" and "include" are not limiting. The word "shall" is always mandatory.

16.89.020 Access, PEG access, PEG use, or PEG.

"Access," "PEG access," "PEG use," or "PEG" means the availability of a cable or video system for public, educational, or governmental use by various agencies, institutions, organizations, groups, and individuals, including the county and its exclusive county use channel as described in Division 4 of this title or any existing agreement between the county and any incumbent cable operator, to acquire, create, and distribute programming not under a state franchise holder's editorial control.

16.89.030 County.

"County" means the county of Los Angeles, state of California.

16.89.040 Gross revenues.

"Gross revenues" means all revenues actually received by the holder of a state franchise that are derived from the operation of the holder's network to provide cable service or video service within the unincorporated areas of the county, subject to the specifications of California Public Utilities Code section 5860.

16.89.050 Director of public works.

"Director of public works" means the director of public works of the county of Los Angeles or his or her designee.

16.89.060 State franchise holder, holder of a state franchise, holder of the state franchise, or holder.

"State franchise holder," "holder of a state franchise," "holder of the state franchise," or "holder" means a person, as defined in Section 16.58.240, or group of persons that has been issued a franchise by the California Public Utilities Commission to provide cable service or video service, as those terms are defined in California Public Utilities Code section 5830, within any portion of the unincorporated areas of the county.

Chapter 16.90

FEES

Sections:

- 16.90.010 State franchise fees.**
- 16.90.020 PEG fees.**
- 16.90.030 Payment of fees.**
- 16.90.040 Audits.**
- 16.90.050 Late payments.**
- 16.90.060 Lease of county-owned network.**

16.90.010 State franchise fees.

Any state franchise holder operating within the unincorporated areas of the county shall pay to the county a state franchise fee equal to five percent (5%) of gross revenues.

16.90.020 PEG fees.

Any state franchise holder operating within the unincorporated areas of the county shall pay to the county a PEG fee equal to one percent (1%) of gross revenues.

16.90.030 Payment of fees.

The state franchise fee required pursuant to Section 16.90.010, and the PEG fee required pursuant to Section 16.90.020, shall each be paid quarterly, in a manner consistent with California Public Utilities Code section 5860. The state franchise holder shall deliver to the county, by check or other means agreeable to the county, a separate payment for the state franchise fee and the PEG fee not later than forty-five (45) days after the end of each calendar quarter. Each payment made shall be accompanied by a report, detailing how the payment was calculated, and shall include such additional information on the appropriate form as designated by the county.

16.90.040 Audits.

The county may audit the business records of the holder of a state franchise in a manner not inconsistent with California Public Utilities Code section 5860(i).

16.90.050 Late payments.

In the event a state franchise holder fails to make payments required by this chapter on or before the due dates specified in this chapter, the county shall impose a late charge at the rate per year equal to the highest prime lending rate during the period of delinquency, plus one percent (1%).

16.90.060 Lease of county-owned network.

To the extent not inconsistent with California Public Utilities Code section 5840(q)(2)(B), in the event a state franchise holder leases access to a network owned by the county, the county may set a franchise fee for access to the county-

owned network separate and apart from the franchise fee charged to state franchise holders pursuant to Section 16.90.010.

Chapter 16.91

CUSTOMER SERVICE

Sections:

16.91.010 Customer service and consumer protection standards.

16.91.020 Penalties for violations of standards.

16.91.010 Customer service and consumer protection standards.

Each state franchise holder shall comply with all applicable customer service and consumer protection standards, including, to the extent not inconsistent with California Public Utilities Code section 5900, all existing and subsequently enacted customer service and consumer protection standards established by state and federal law and regulation.

16.91.020 Penalties for violations of standards.

A. The county shall monitor compliance with and enforce the provisions of Section 16.91.010.

B. For any material breach, as defined in California Public Utilities Code section 5900(j), by a state franchise holder of applicable customer service and consumer protection standards, the county may impose the following penalties:

1. For the first occurrence of a material breach, a fine of \$500.00 shall be imposed for each day the violation remains in effect, not to exceed \$1,500.00 for each violation.

2. For a second material breach of the same nature within 12 months, a fine of \$1,000.00 shall be imposed for each day the violation remains in effect, not to exceed \$3,000.00 for each violation.

3. For a third or further material breach of the same nature within 12 months, a fine of \$2,500.00 shall be imposed for each day the violation remains in effect, not to exceed \$7,500.00 for each violation.

C. Any penalties imposed by the county shall be imposed in a manner not inconsistent with California Public Utilities Code section 5900.

D. To the extent not inconsistent with California Public Utilities Code section 5900, the county may waive, modify, or defer the imposition of a penalty.

Chapter 16.92

PERMITS AND CONSTRUCTION

Sections:

- 16.92.010 General Requirements.**
- 16.92.020 Permits.**
- 16.92.030 Highway work – Terms and conditions.**
- 16.92.040 Relocation of franchise property and appurtenances.**
- 16.92.050 Removal or abandonment of facilities.**
- 16.92.060 Failure to remove facilities; County to perform work; Costs.**
- 16.92.070 Notification to residents regarding construction or maintenance.**
- 16.92.080 Identification required.**
- 16.92.090 Restoration of private and public property.**
- 16.92.100 Reports to the director of public works.**
- 16.92.010 General Requirements.**

Except as expressly provided in this Division 6, the provisions of Division 1 of this title shall apply to all work performed by or on behalf of a state franchise holder in any

highway, as defined in Section 16.04.100 in said Division 1 of this title, or in any other county right-of-way or county easement.

16.92.020 Permits.

A. Prior to commencing any work for which a permit is required by Division 1 of this Title 16, a state franchise holder shall apply for and obtain a permit in accordance with the provisions of said Division 1 and shall comply with all other applicable laws and regulations, including but not limited to, all applicable requirements of Division 13 of the California Public Resources Code section 21000 *et seq.* (the California Environmental Quality Act).

B. The director of public works shall either approve or deny a state franchise holder's application for any permit required under Division 1 of this title within sixty (60) days of receiving a completed permit application from the state franchise holder.

C. If the director of public works denies a state franchise holder's application for a permit, the director of public works shall, at the time of notifying the applicant of denial, furnish to the applicant a detailed explanation of the reason or reasons for the denial.

D. A state franchise holder that has been denied a permit by final decision of the director of public works may appeal the denial to the board of supervisors whose decision shall be final. Upon receiving a notice of appeal, the board of supervisors shall take one of the following actions:

1. Affirm the action of the director of public works without a hearing; or

2. Refer the matter back to the director of public works for further review with or without instructions; or

3. Set the matter for a de novo hearing before the board of supervisors.

16.92.030 Highway work – Terms and conditions.

The work of constructing, laying, replacing, maintaining, repairing, abandoning, or removing all property and appurtenances of the state franchise holder in, over, under, along, or across any county highway shall be done to the satisfaction of the director of public works at the expense of the state franchise holder, and in accordance with the terms and conditions of Division 1 of this title. Whenever above-ground equipment is placed on county rights-of-way, the state franchise holder shall provide landscaping camouflage acceptable to the director of public works.

16.92.040 Relocation of franchise property and appurtenances.

A. The county reserves the right to change the grade, change the width, or alter or change the location of any county highway over which the franchise is granted. If any of the franchise property or appurtenances heretofore or hereafter constructed, installed, or maintained by the state franchise holder on, along, under, over, in, upon, or across any highway are located in a manner which prevents or interferes with the change of grade, traffic needs, operation, maintenance, improvement, repair, construction, reconstruction, widening, alteration, or relocation of the highway, or any work or improvement upon the highway, the state franchise holder shall relocate permanently or temporarily any such property or appurtenances of the state franchise

holder at no expense to the county, city, or other public entity upon receipt of a written request from the director of public works to do so, and shall commence such work on or before the date specified in such written request, which date shall be not less than thirty (30) days from the date of such written request. The state franchise holder shall thereafter diligently prosecute such work to completion. Should the state franchise holder neglect or fail to relocate its facilities in a timely manner after receipt of any such notice, the state franchise holder shall be responsible for and shall reimburse the county for any and all additional costs or expenses incurred by county due to or resulting from such delay in relocation of facilities. Provided, however, if such highway is subsequently constituted as a state highway, thereafter and so long as such highway remains a state highway, no such change of location shall be required for a temporary purpose.

B. The county reserves the right for itself, for all cities and other public entities which are now or may later be established, to lay, construct, repair, alter, relocate, and maintain subsurface or other facilities or improvements of any type or description in a governmental but not proprietary capacity within the highways over which the franchise is granted. If the county, city, or other public entity finds that the location or relocation of such facilities or improvements conflicts with the property or appurtenances laid, constructed, or maintained by the state franchise holder, whether such property was laid, constructed, or maintained before or after the facilities of the county or such city or other public entity were laid, the state franchise holder shall at no expense to the county, city, or public entity, on or before the date specified in a written

request from the director of public works, which date shall not be less than thirty (30) days after the date of such notice and request to do so, commence work to change the location either permanently or temporarily of all property and appurtenances so conflicting with such improvements to a permanent or temporary location in such highways, to be approved by the director of public works; and thereafter diligently prosecute such work to completion. Should the state franchise holder neglect or fail to relocate its facilities within the period specified in any such notice, the state franchise holder shall be responsible for and shall reimburse the county, city, or other public entity for any and all additional costs or expenses incurred by the county, city, or other public entity due to or resulting from such delay in relocation of facilities. If such highway be subsequently constituted a state highway, while it remains a state highway the rights of the state of California shall be as provided in section 680 of the California Streets and Highways Code.

16.92.050 Removal or abandonment of facilities.

A. Upon the permanent discontinuance of the use of all or a portion of its property, the state franchise holder shall, within thirty (30) days thereafter, make written application to the director of public works for authority either to abandon all or a portion of such property in place; or to remove all or a portion of such property. Such application shall describe the property desired to be abandoned and its location with reference to county highways, and shall describe with reasonable accuracy the physical condition of such property. The director of public works shall determine whether any abandonment or removal which is thereby proposed may be effected without detriment

to the public interest and under what conditions such proposed abandonment or removal may be effected. The director of public works shall then notify the state franchise holder of the determination.

B. Within thirty (30) days of the date of the director of public works' notice, the state franchise holder shall apply for a permit from the department of public works to abandon or remove the property.

C. The state franchise holder shall, within sixty (60) days after obtaining such permit, commence and diligently prosecute to completion the work authorized by the permit.

16.92.060 Failure to remove facilities; County to perform work; Costs.

A. If any facilities abandoned pursuant to Section 16.92.040 are not abandoned in accordance with all conditions specified by the director of public works, the director of public works may make additional appropriate orders, including an order that the state franchise holder shall remove any or all such facilities. The state franchise holder shall comply with such additional orders.

B. In the event that the state franchise holder fails to comply with the terms and conditions of abandonment or removal as may be required by this Division 6, and within such time as may be prescribed by the director of public works, then the county may remove, or cause to be removed, such facilities at the state franchise holder's expense. The state franchise holder shall pay to the county the cost of such work plus the current rate of overhead being charged by the county for reimbursable work.

C. If upon the permanent discontinuance of the use of all or a portion of its property, the state franchise holder, within thirty (30) days thereafter, fails or refuses to make written application for authority to remove or abandon the property, the director of public works shall make the determination as to whether the property shall be abandoned in place or removed. The director of public works shall then notify the state franchise holder of the determination. The state franchise holder shall thereafter comply with the provisions of subsections B and C of Section 16.92.050.

16.92.070 Notification to residents regarding construction or maintenance.

A. Prior to any construction, rebuild, or upgrade of a cable or video system, a state franchise holder shall establish procedures for notifying county residents in the impacted area of construction schedules and activities. Such notices must be provided in the predominant languages spoken by those persons who work and/or reside in the impacted area. The notices shall be provided to the director of public works for review and approval no later than twenty (20) days before commencement of construction, rebuild, or upgrade activities.

B. At a minimum the notice required in subsection A shall be provided by the state franchise holder to impacted residents and occupants in the construction area not less than forty-eight (48) hours prior to the planned construction. Additional notice shall be provided by the state franchise holder to the persons described in subsection A, above, on the day of construction. The notice may be in the form of door hangers that

indicate, at a minimum, the dates and times of construction, and the name and telephone number of a state franchise holder contact.

C. The state franchise holder shall provide notice at least twenty (20) days prior to entering private property or public ways or public easements adjacent to or on such private property, public ways, or public easements, and provide a second notice three (3) days prior to entering such property.

1. Should there be above ground or underground installations (excluding aerial cable lines utilizing existing poles and cable paths) which will affect the private property, such notice shall be in writing and shall contain specific information regarding any above ground or underground installations (excluding aerial cable lines utilizing existing poles and existing cable paths) which shall affect the private property.

2. To the extent practicable, above-ground or underground equipment placed on private property shall be placed at the location requested by the property owner. A state franchise holder shall provide the private property owner with at least twenty (20) days advance written notice of its plans to install such equipment, and shall obtain express written consent, in the form of a recorded easement agreement, from the private property owner before installing its appurtenances. The state franchise holder shall notify the property owner, in writing, that the property owner is not obligated to agree to the placement on their property or to enter into an easement agreement with the state franchise holder. Should property owner notify the state franchise holder of objection to placement of any such above-ground or underground installations (excluding aerial cable lines utilizing existing poles and existing cable paths), the state

franchise holder shall confer with the county public works department regarding appropriate location and placement of such appurtenances.

D. In addition to any other notice of proposed entry required under this Division 6, a state franchise holder's personnel shall make a reasonable attempt to give personal notice to residents immediately preceding entry on private property or public ways or public easements adjacent to or on such private property.

16.92.080 Identification required.

A. A state franchise holder, its employees, agents, contractors, and subcontractors shall be properly identified as agents of the state franchise holder prior to and during entry on private and public property. Identification shall include the name and telephone number of the state franchise holder on all trucks and vehicles used by installation personnel.

16.92.090 Restoration of private and public property.

After performance of work, the state franchise holder shall restore such private and public property to a condition equal to or better than its condition prior to construction. Any disturbance of landscaping, fencing, or other improvements upon private or public property shall, at the sole expense of the state franchise holder, be promptly repaired or restored (including replacement of such valuables as shrubbery and fencing) to the reasonable satisfaction of the property owner, in addition to the furnishing of camouflage plants on public property.

16.92.100 Reports to the director of public works.

Each state franchise holder, within sixty (60) days after the expiration of each calendar year, shall file a report with the director of public works, which shall contain a streets and highways map or maps of any convenient scale on which shall be plotted the location of the entire transmission and distribution system or systems as of the last day of the just expired calendar year, with the system or systems located in the county highways indicated by distinctive coloration or symbols.

Chapter 16.93

EMERGENCY ALERT

Sections:

16.93.010 Emergency Alert Systems.

16.93.010 Emergency Alert Systems.

A. Each state franchise holder shall comply with the emergency alert system requirements of the Federal Communications Commission in order that emergency messages may be distributed over the state franchise holder's network.

B. To the extent not inconsistent with California Public Utilities Code section 5880, each state franchise holder shall incorporate into its network the capability to permit the county in times of emergency to override the audio portion of all channels simultaneously. In addition, if feasible, each state franchise holder may be required to designate a channel, which may be a PEG channel, to be used for emergency broadcasts of both audio and video. The state franchise holder shall cooperate with the county in the use and operation of the emergency alert override system.

Chapter 16.94

INTERCONNECTION

Sections:

16.94.010 Interconnection for PEG programming.

16.94.010 Interconnection for PEG programming.

Each holder of a state franchise, and each incumbent cable operator operating under a county franchise issued pursuant to this title, shall negotiate with each other in good faith to interconnect their networks for the purpose of providing PEG programming including, but not limited to, the exclusive county use channel as described in Division 4 of this title. Interconnection may be accomplished by any means authorized under California Public Utilities Code section 5870(h). Each holder of a state franchise and cable operator shall provide interconnection of PEG channels including the exclusive county use channel on reasonable terms and conditions and may not withhold the interconnection. If a holder of a state franchise and an incumbent cable operator cannot reach a mutually acceptable interconnection agreement, the county may require the incumbent cable operator to allow the holder of the state franchise to interconnect its network with the incumbent cable operator's network at a technically feasible point on the state franchise holder's network as identified by the holder. If no technically feasible point for interconnection is available, the holder of a state franchise shall make an interconnection available to the channel originator and shall provide the facilities necessary for the interconnection. The cost of any interconnection shall be borne by the state franchise holder requesting the interconnection unless otherwise agreed to by

the state franchise holder and the incumbent cable operator. To the extent not inconsistent with California Public Utilities Code section 5870(h), the county may waive, modify, or defer this requirement of interconnection.

Chapter 16.95

NOTICES

Sections:

16.95.010 Notices.

16.95.010 Notices.

A. Each state franchise holder or applicant for a state franchise shall file with the county a copy of all applications or notices that the state franchise holder or applicant is required to file with the Public Utilities Commission.

B. Unless otherwise specified in this chapter, all notices or other documentation that a state franchise holder is required to provide to the county under this Division 6 or the California Public Utilities Code shall be provided to both the executive officer of the board of supervisors and the chief administrative officer, or their successors or designees.

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